purposes of improving the maintenance and operation of the project, establishing businesses enterprises that employ residents of public housing, or acquiring additional dwelling units for lower income families. Units acquired by the resident management corporation will not be eligible for payment of operating subsidy.

# PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

### Subpart A—General

Sec.

1000.1 What is the applicability and scope of these regulations?

1000.2 What are the guiding principles in the implementation of NAHASDA?

1000.4 What are the objectives of NAHASDA?

1000.6 What is the nature of the IHBG program?

1000.8 May provisions of these regulations be waived?

1000.10 What definitions apply in these regulations?

1000.12 What nondiscrimination requirements are applicable?

1000.14 What relocation and real property acquisition policies are applicable?

1000.16 What labor standards are applicable? 1000.18 What environmental review requirements apply?

1000.20 Is an Indian tribe required to assume environmental review responsibilities?

1000.22 Are the costs of the environmental review an eligible cost?

1000.24 If an Indian tribe assumes environmental review responsibility, how will HUD assist the Indian tribe in performing the environmental review?

1000.26 What are the administrative requirements under NAHASDA?

1000.28 May a self-governance Indian tribe be exempted from the applicability of §1000.26?

1000.30 What prohibitions regarding conflict of interest are applicable?

1000.32 May exceptions be made to the conflict of interest provisions?

1000.34 What factors must be considered in making an exception to the conflict of interest provisions?

1000.36 How long must a recipient retain records regarding exceptions made to the conflict of interest provisions?

1000.38 What flood insurance requirements are applicable?

1000.40 Do lead-based paint poisoning prevention requirements apply to affordable housing activities under NAHASDA?

1000.42 Are the requirements of section 3 of the Housing and Urban Development Act of 1968 applicable?

1000.44 What prohibitions on the use of debarred, suspended or ineligible contractors apply?

1000.46 Do drug-free workplace requirements apply?

1000.48 Are Indian preference requirements applicable to IHBG activities?

1000.50 What Indian preference requirements apply to IHBG administration activities?

1000.52 What Indian preference requirements apply to IHBG procurement?

1000.54 What procedures apply to complaints arising out of any of the methods of providing for Indian preference?

of providing for Indian preference? 1000.56 How are NAHASDA funds paid by HUD to recipients?

1000.58 Are there limitations on the investment of IHBG funds?

1000.60 Can HUD prevent improper expenditure of funds already disbursed to a recipient?

1000.62 What is considered program income and what restrictions are there on its use?

### Subpart B—Affordable Housing Activities

1000.101 What is affordable housing?

1000.102 What are eligible affordable housing activities?

1000.104 What families are eligible for affordable housing activities?

1000.106 What families receiving assistance under title II of NAHASDA require HUD

1000.108 How is HUD approval obtained by a recipient for housing for non low-income Indian families and model activities?

1000.110 Under what conditions may non low-income Indian families participate in the program?

1000.112 How will HUD determine whether to approve model housing activities?

1000.114 How long does HUD have to review and act on a proposal to provide assistance to non low-income Indian families or a model housing activity?

1000.116 What should HUD do before declining a proposal to provide assistance to non low-income Indian families or a model housing activity?

1000.118 What recourse does a recipient have if HUD disapproves a proposal to provide assistance to non low-income Indian fam-

ilies or a model housing activity? 1000.120 May a recipient use Indian preference or tribal preference in selecting families for housing assistance?

1000.122 May NAHASDA grant funds be used as matching funds to obtain and leverage funding, including any Federal or state program and still be considered an affordable housing activity?

#### Pt. 1000

- 1000.124 What maximum and minimum rent or homebuyer payment can a recipient charge a low-income rental tenant or homebuyer residing in housing units assisted with NAHASDA grant amounts?
- 1000.126 May a recipient charge flat or income-adjusted rents?
- 1000.128 Is income verification required for assistance under NAHASDA?
- 1000.130 May a recipient charge a non lowincome family rents or homebuyer payments which are more than 30 percent of the family's adjusted income?
- 1000.132 Are utilities considered a part of rent or homebuyer payments?
- 1000.134 When may a recipient (or entity funded by a recipient) demolish or dispose of current assisted stock?
- 1000.136 What insurance requirements apply to housing units assisted with NAHASDA grants?
- 1000.138 What constitutes adequate insurance?
- 1000.140 May a recipient use grant funds to purchase insurance for privately owned housing to protect NAHASDA grant amounts spent on that housing?
- 1000.142 What is the "useful life" during which low-income rental housing and low-income homebuyer housing must remain affordable as required in sections 205(a)(2) and 209 of NAHASDA?
- 1000.144 Are Mutual Help homes developed under the 1937 Act subject to the useful life provisions of section 205(a)(2)?
- 1000.146 Are homebuyers required to remain low-income throughout the term of their participation in a housing program funded under NAHASDA?
- 1000.150 How may Indian tribes and TDHEs receive criminal conviction information on adult applicants or tenants?
- 1000.152 How is the recipient to use criminal conviction information?
- 1000.154 How is the recipient to keep criminal conviction information confidential?
- 1000.156 Is affordable housing developed, acquired, or assisted under the IHBG program subject to limitations on cost or design standards?
- 1000.158 How will a NAHASDA grant recipient know that the housing assisted under the IHBG program meets the requirements of §1000.156?
- 1000.160 Are non-dwelling structures developed, acquired or assisted under the IHBG program subject to limitations on cost or design standards?
- 1000.162 How will a recipient know that nondwelling structures assisted under the IHBG program meet the requirements of 1000.160?

### Subpart C-Indian Housing Plan (IHP)

1000.201 How are funds made available under NAHASDA?

- 1000.202 Who are eligible recipients?
- 1000.204 How does an Indian tribe designate itself as recipient of the grant?
- 1000.206 How is a TDHE designated?
- 1000.208 What happens if an Indian tribe had two IHAs as of September 30, 1996?
- 1000.210 What happens to existing 1937 Act units in those jurisdictions for which Indian tribes do not or cannot submit an IHP2
- 1000.212 Is submission of an IHP required?
- 1000.214 What is the deadline for submission of an IHP?
- 1000.216 What happens if the recipient does not submit the IHP to the Area ONAP by July 1?
- 1000.218 Who prepares an submits an IHP?
- 1000.220 What are the minimum requirements for the IHP?
- 1000.222 Are there separate IHP requirements for small Indian tribes and small TDHEs?
- 1000.224 Can any part of the IHP be waived? 1000.226 Can the certification requirements of section 102(c)(5) of NAHASDA be waived by HUD?
- 1000.228 If HUD changes its IHP format will Indian tribes be involved?
- 1000.230 What is the process for HUD review of IHPs and IHP amendments?
- 1000.232 Can an Indian tribe or TDHE amend its IHP?
- 1000.234 Can HUD's determination regarding the non-compliance of an IHP or a modification to an IHP be appealed?
- 1000.236 What are eligible administrative and planning expenses?
- 1000.238 What percentage of the IHBG funds can be used for administrative and planning expenses?
- 1000.240 When is a local cooperation agreement required for affordable housing activities?
- 1000.242 When does the requirement for exemption from taxation apply to affordable housing activities?

#### Subpart D—Allocation Formula

- 1000.301 What is the purpose of the IHBG formula?
- 1000.302 What are the definitions applicable for the IHBG formula?
- 1000.304 May the IHBG formula be modified? 1000.306 How can the IHBG formula be modified?
- 1000.308 Who can make modifications to the IHBG formula?
- 1000.310 What are the components of the IHBG formula?
- 1000.312 What is current assisted stock?
- 1000.314 What is formula current assisted stock?
- 1000.316 How is the Formula Current Assisted Stock (FCAS) Component developed?

- 1000.317 Who is the recipient for funds for current assisted stock which is owned by state-created Regional Native Housing Authorities in Alaska?
- 1000.318 When do units under Formula Current Assisted Stock cease to be counted or expire from the inventory used for the formula?
- 1000.320 How is Formula Current Assisted Stock adjusted for local area costs?
- 1000.322 Are IHA financed units included in the determination of Formula Current Assisted Stock?
- 1000.324 How is the need component developed?
- 1000.325 How is the need component adjusted for local area costs?
- 1000.326 What if a formula area is served by more than one Indian tribe?
- 1000.327 What is the order of preference for allocating the IHBG formula needs data for Indian tribes in Alaska not located on reservations due to the unique circumstances in Alaska?
- 1000.328 What is the minimum amount an Indian tribe can receive under the need component of the formula?
- 1000.330 What are data sources for the need variables?
- 1000.332 Will data used by HUD to determine an Indian tribe's or TDHE's formula allocation be provided to the Indian tribe or TDHE before the allocation?
- 1000.334 May Indian tribes, TDHEs, or HUD challenge the data from the U.S. Decennial Census or provide an alternative source of data?
- 1000.336 How may an Indian tribe, TDHE, or HUD challenge data?
- 1000.340 What if an Indian tribe is allocated less funding under the block grant formula than it received in Fiscal Year 1996 for operating subsidy and modernization?

# Subpart E—Federal Guarantees for Financing of Tribal Housing Activities

- 1000.401 What terms are used throughout this subpart?
- 1000.402 Are State recognized Indian tribes eligible for guarantees under title VI of NAHASDA?
- 1000.404 What lenders are eligible for participation?
- 1000.406 What constitutes tribal approval to issue notes or other obligations under title VI of NAHASDA?
- 1000.408 How does an Indian tribe or TDHE show that it has made efforts to obtain financing without a guarantee and cannot complete such financing in a timely manner?
- 1000.410 What conditions shall HUD prescribe when providing a guarantee for notes or other obligations issued by an Indian tribe?

- 1000.412 Can an issuer obtain a guarantee for more than one note or other obligation at a time?
- 1000.414 How is an issuer's financial capacity demonstrated?
- 1000.416 What is a repayment contract in a form acceptable to HUD?
- 1000.418 Can grant funds be used to pay costs incurred when issuing notes or other obligations?
- 1000.420 May grants made by HUD under section 603 of NAHASDA be used to pay net interest costs incurred when issuing notes or other obligations?
- 1000.422 What are the procedures for applying for loan guarantees under title VI of NAHASDA?
- 1000.424 What are the application requirements for guarantee assistance under title VI of NAHASDA?
- 1000.426 How does HUD review a guarantee application?
- 1000.428 For what reasons may HUD disapprove an application or approve an application for an amount less than that requested?
- 1000.430 When will HUD issue notice to the applicant if the application is approved at the requested or reduced amount?
- 1000.432 Can an amendment to an approved guarantee be made?
- 1000.434 How will HUD allocate the availability of loan guarantee assistance?
- 1000.436 How will HUD monitor the use of funds guaranteed under this subpart?

### Subpart F—Recipient Monitoring, Oversight and Accountability

- 1000.501 Who is involved in monitoring activities under NAHASDA?
- 1000.502 What are the monitoring responsibilities of the recipient, the grant beneficiary and HUD under NAHASDA?
- 1000.504 What are the recipient performance objectives?
- 1000.506 If the TDHE is the recipient, must it submit its monitoring evaluation/results to the Indian tribe?
- 1000.508 If the recipient monitoring identifies programmatic concerns, what happens?
- 1000.510 What happens if tribal monitoring identifies compliance concerns?
- 1000.512 Are performance reports required?
- 1000.514 When must the annual performance report be submitted?
- 1000.516 What reporting period is covered by the annual performance report?
- 1000.518 When must a recipient obtain public comment on its annual performance report?
- 1000.520 What are the purposes of HUD review?
- 1000.521 After the receipt of the recipient's performance report, how long does HUD

#### § 1000.1

- have to make recommendations under section 404(c) of NAHASDA?
- 1000.522 How will HUD give notice of on-site reviews?
- 1000.524 What are HUD's performance measures for the review?
- 1000.526 What information will HUD use for its review?
- 1000.528 What are the procedures for the recipient to comment on the result of HUD's review when HUD issues a report under section 405(b) of NAHASDA?
- 1000.530 What corrective and remedial actions will HUD request or recommend to address performance problems prior to taking action under §1000.532 or §1000.538?
- 1000.532 What are the adjustments HUD makes to a recipient's future year's grant amount under section 405 of NAHASDA?
- 1000.534 What constitutes substantial non-compliance?
- 1000.536 What happens to NAHASDA grant funds adjusted, reduced, withdrawn, or terminated under §1000.532 or §1000.538?
- 1000.538 What remedies are available for substantial noncompliance?
- 1000.540 What hearing procedures will be used under NAHASDA?
- 1000.542 When may HUD require replacement of a recipient?
- 1000.544 What audits are required?
- 1000.546 Are audit costs eligible program or administrative expenses?
- 1000.548 Must a copy of the recipient's audit pursuant to the Single Audit Act relating to NAHASDA activities be submitted to HUD?
- 1000.550 If the TDHE is the recipient, does it have to submit a copy of its audit to the Indian tribe?
- 1000.552 How long must the recipient maintain program records?
- 1000.554 Which agencies have right of access to the recipient's records relating to activities carried out under NAHASDA?
- 1000.556 Does the Freedom of Information Act (FOIA) apply to recipient records?
- 1000.558 Does the Federal Privacy Act apply to recipient records?
- APPENDIX A TO PART 1000—INDIAN HOUSING BLOCK GRANT FORMULA MECHANICS
- APPENDIX B TO PART 1000—IHBG BLOCK GRANT FORMULA MECHANISMS
- AUTHORITY: 25 U.S.C. 4101 et seq.; 42 U.S.C. 3535(d).
- SOURCE: 63 FR 12349, Mar. 12, 1998, unless otherwise noted.

### Subpart A—General

## \$1000.1 What is the applicability and scope of these regulations?

Under the Native American Housing Assistance and Self-Determination Act 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) the Department of Housing and Urban Development (HUD) provides grants, loan guarantees, and technical assistance to Indian tribes and Alaska Native villages for the development and operation of low-income housing in Indian areas. The policies and procedures described in this part apply to grants to eligible recipients under the Indian Housing Block Grant (IHBG) program for Indian tribes and Alaska Native villages. This part also applies to loan guarantee assistance under title VI of NAHASDA. The regulations in this part supplement the statutory requirements set forth in NAHASĎA. This part, as much as practicable, does not repeat statutory lan-

# § 1000.2 What are the guiding principles in the implementation of NAHASDA?

- (a) The Secretary shall use the following Congressional findings set forth in section 2 of NAHASDA as the guiding principles in the implementation of NAHASDA:
- (1) The Federal government has a responsibility to promote the general welfare of the Nation:
- (i) By using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;
- (ii) By working to ensure a thriving national economy and a strong private housing market; and
- (iii) By developing effective partnerships among the Federal government, state, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities.